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|---|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/817,550  | 04/02/2004  | Jeremy Alan Ortega   | 7400                | 2527             |
| 7590  | 04/03/2008  |                      | EXAMINER            |                  |
| Robert D. Toussie<br>Johns Manville International, Inc.<br>10100 West Ute Avenue<br>Littleton, CO 80127 |             |                      | NGUYEN, CHI Q       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3635                |                  |
|   |             |                      | MAIL DATE           | DELIVERY MODE    |
|   |             |                      | 04/03/2008          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |
|------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/817,550 | <b>Applicant(s)</b><br>ORTEGA, JEREMY ALAN |
|                              | <b>Examiner</b><br>CHI Q. NGUYEN     | <b>Art Unit</b><br>3635                    |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 03 January 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
  - 4a) Of the above claim(s) 3,4,6,11,12,15-17 and 27-29 is/are withdrawn from consideration.
- 5) Claim(s) 25,26 and 30-36 is/are allowed.
- 6) Claim(s) 1,2,7-10,13,14 and 18-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 1/19/2008.

#### ***Status of Claims***

Claims 3, 4, 15-16, and 27-28 have been withdrawn.

Claims 6, 11-12, 17, and 29 have cancelled.

Claims 1-2, 5, 7-10, 13-14, 18-26, and 30-36 are pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5,069,589 to Lemke.

Claims: 1, 5

Lemke discloses a roof sheet membrane fastener assembly for securing a roof sheet membrane with a topside release sheet to a roof substrate, comprising: a mechanical fastener 34 for passing through a roof sheet membrane 31 with a topside release sheet and into a roof substrate overlaid by the roof sheet membrane to secure the roof sheet membrane to the roof substrate; and a disk 38 through which the mechanical fastener passes for contacting and overlaying a portion of the topside release sheet of the roof sheet membrane that immediately surrounds the mechanical fastener and for causing the portion of the topside release sheet overlaid by the disk to

separate from a remainder of the topside release sheet when the topside release sheet is removed from the roof sheet membrane, the disk having a peripheral cutting means 66/68, depending from an outer peripheral edge portion of the disk for at least weaken the topside release sheet to facilitate the separation of the portion of the topside, release sheet overlaid by the disk from the remainder of the topside release sheet when the topside release sheet is removed from the roof sheet membrane; the peripheral cutting means 66/68 of the disk having a depth and the roof sheet membrane fastener assembly being adapted to be used with a roof sheet membrane having a topside release sheet having a thickness greater than the depth of the peripheral cutting means whereby the peripheral cutting means scores the topside release sheet without passing completely through topside release sheet to weaken the release sheet at the peripheral cutting with no degradation of the performance of the roof sheet membrane, and the release sheet is easily separate at the peripheral cutting means when the release sheet is removed from the roof sheet membrane (see cols. 3-4, Figs. 9-11).

Claim 2:

Wherein: the mechanical fastener 34 comprises an topside head portion 36 and a slender shank portion 46 for passing through the roof sheet membrane and into the roof substrate to secure the roof sheet membrane to the roof substrate; and the slender shank portion of the mechanical fastener is integral with and depends from the topside head portion of the mechanical fastener and passes through the disk (see Figs. 1 and 3).

Claims 7-10:

Wherein: the peripheral cutting means 66/68 comprises a series of teeth or peripheral cutting edges 64 for penetrating the topside release sheet (Fig. 11).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-14, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 5,069,589 to Lemke in view of US Pat. 6,701,685 to Rippey.

Claims 13, 18-24:

Lemke discloses a roof sheet membrane fastener assembly for securing a roof sheet membrane with a topside release sheet to a roof substrate, comprising: a mechanical fastener 34 for passing through a roof sheet membrane 31 with a topside release sheet and into a roof substrate overlaid by the roof sheet membrane to secure the roof sheet membrane to the roof substrate; and a disk 38 through which the mechanical fastener passes for contacting and overlaying a portion of the topside release sheet of the roof sheet membrane that immediately surrounds the mechanical fastener and for causing the portion of the topside release sheet overlaid by the disk to separate from a remainder of the topside release sheet when the topside release sheet is removed from the roof sheet membrane, the disk having a peripheral cutting means 66/68, depending from an outer peripheral edge portion of the disk for at least weaken the topside release sheet to facilitate the separation of the portion of the topside,

release sheet overlaid by the disk from the remainder of the topside release sheet when the topside release sheet is removed from the roof sheet membrane; the peripheral cutting means 66/68 of the disk having a depth and the roof sheet membrane fastener assembly being adapted to be used with a roof sheet membrane having a topside release sheet having a thickness greater than the depth of the peripheral cutting means whereby the peripheral cutting means scores the topside release sheet without passing completely through topside release sheet to weaken the release sheet at the peripheral cutting with no degradation of the performance of the roof sheet membrane, and the release sheet is easily separate at the peripheral cutting means when the release sheet is removed from the roof sheet membrane, Wherein: the peripheral cutting means 66/68 comprises a series of teeth or peripheral cutting edges 64 for penetrating the topside release sheet (see cols. 3-4, Figs. 9-11). Lemke discloses the claimed invention as stated but does not disclose expressly a release sheet covered a roof membrane sheet. Rippey discloses a roof membrane assembly including a roof membrane 20, having a top surface 24 covered by a release sheet 30 (see Fig. 1). In view of Rippey, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to provide Lemke's invention with a release sheet for covering a top side of the roof membrane as Lemke concerned in order to prevent adhesive material on the top surface dried out or unwanted bonding.

Claim 14:

Wherein: the mechanical fastener 34 comprises an topside head portion 36 and a slender shank portion 46 for passing through the roof sheet membrane and into the

roof substrate to secure the roof sheet membrane to the roof substrate; and the slender shank portion of the mechanical fastener is integral with and depends from the topside head portion of the mechanical fastener and passes through the disk (see Figs. 1 and 3).

***Allowable Subject Matter***

Claims 25, 26, and 30-36 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 5, 7-10, 13-14, and 18-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633